

HOUSE BILL REPORT

SSB 5701

As Reported By House Committee On:
Agriculture & Ecology

Title: An act relating to commercial soil amendments.

Brief Description: Licensing distributors of commercial soil.

Sponsors: Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Rasmussen and Swecker).

Brief History:

Committee Activity:

Agriculture & Ecology: 3/26/97, 3/27/97 [DPA].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin; Regala and Sump.

Staff: Kenneth Hirst (786-7105).

Background: No person may distribute a commercial fertilizer in unpackaged, bulk form without obtaining an annual license for the activity from the Washington State Department of Agriculture (WSDA). A license is not required to distribute packaged fertilizers, but the packaged fertilizers must be registered with the WSDA. A registered label, including its guaranteed analysis, is required for such a packaged fertilizer. The guaranteed analysis identifies the minimum percentages of the following present in the product: total nitrogen, available phosphoric acid, and soluble potash. It may also include an identification of the percentage of elemental phosphorus and of potassium present and other analyses required by the WSDA. If commercial fertilizer is delivered in bulk form, written information similar to registered label information for the fertilizer must be provided to the purchaser at the time of delivery. Bulk fertilizer formulations are not registered or licensed, but the distributors of bulk fertilizers are licensed under the commercial fertilizer laws.

The solid waste management laws define "solid waste" as being all putrescible and nonputrescible solid and semisolid wastes including garbage, rubbish, ashes, industrial

wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles and vehicle parts, and recyclable materials.

Summary of Amended Bill: A commercial fertilizer now includes a substance that is generated as a by-product in the manufacturing of wood products and intended to improve the physical characteristics of the soil. The guaranteed analysis– listed for such wood by-products must include the name and percentage of each soil amending ingredient and the total percentage of all other ingredients. For such wood by-products, the label must include the purpose of the product and application directions.

Commercial Fertilizer That is Defined as Solid Waste. Before a product that is defined as a solid waste under the solid waste management laws may be registered as a packaged commercial fertilizer or may be distributed as a commercial fertilizer in bulk form, written approval for its use as a commercial fertilizer must be given by the DOE. The only solid waste materials that may qualify for such approval are substances generated as by-products from the manufacturing of wood products.

The DOE must issue the approval if it finds that the material characteristics and management methods will not pose unacceptable hazards to human health and the environment. Such a written approval must certify, to the degree practicable, that the use of the material as a commercial fertilizer is consistent with: the Model Toxics Control Act, the Washington Clean Air Act, the Hazardous Waste Management Act, biosolids standards of the DOE, the state’s water pollution control laws, and other factors intended to protect human health and the environment. Although the DOE may have given its approval for such a material, the WSDA may subsequently cancel a registration of the material and prohibit its distribution as a commercial fertilizer based on evidence of unacceptable hazards to human health or the environment that were not known during the approval process. A provision of the solid waste management laws that prohibits depositing solid waste on the ground or into waters, except at a solid waste disposal site, does not apply to a person using solid wastes on land as a commercial fertilizer under these approval requirements.

Other. The authority of the WSDA to adopt rules regulating the use and disposal of fertilizers and for the safe handling, transportation, storage, display, and distribution of fertilizer is expressly extended to all commercial fertilizers, including limes.

Amended Bill Compared to Substitute Bill: The amendment: (1) limits the solid waste– that may be approved as commercial fertilizer to substances generated as by-products of the manufacturing of wood products; (2) expressly adds the hazardous waste laws to those that such a use must be consistent with; (3) expressly allows appeals to the Pollution Control Hearings Board regarding decisions of the DOE to approve or deny approval of such a solid waste for use as commercial fertilizer; and (4) removes references to the licensing of bulk commercial fertilizer and replaces them with a prohibition against the distribution of a solid waste material as a

commercial fertilizer unless the use has been approved by the DOE and the authority to distribute it has not been rescinded by the WSDA for unacceptable hazards not known during the approval process.

Appropriation: None.

Fiscal Note: Requested on March 24, 1997.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (1) The productivity of sandy soils common to the northeastern part of the state is greatly enhanced by soil amendments that improve the ability of the soil to retain water. Wood fibers left over after making paper make an excellent water retaining amendment that is similar to peat moss. The amendment also improves drainage in clay soils. (2) Current laws discourage the use of such materials as amendments, yet they can provide for environmental protection while also reducing the volume of material that is land-filled. (3) By adding the hazardous waste laws to the list of laws the DOE must use in the approval process, the DOE can address tagalong chemicals such as heavy metals. (4) A post-papermaking product is currently distributed as a commercial fertilizer; this bill formalizes a process already being used by the WSDA and the DOE.

Testimony Against: (1) The substitute senate bill does not just permit the use of wood waste as commercial fertilizer, it permits the use of any solid waste. (2) The ingredients listed for fertilizer do not inform the user about inert ingredients such as heavy metals. Their presence in fertilizer should be disclosed to farmers before they are spread on and built up on fields. In 75 years, these contaminants would pose a human health hazard. (3) The DOE's decision to approve or deny the use of a solid waste as a commercial fertilizer should be appealable.

Testified: Senator Bob Morton, prime sponsor; Lori Blau, Ponderay Newsprint; and Mary Beth Lang, Department of Agriculture (in favor). Jim Pendowski, Department of Ecology (commented on the bill). Patricia Martin, Mayor of City of Quincy (opposed).